



General Assembly

February Session, 2012

Substitute Bill No. 5366

* ____HB05366JUD__040212__ *

**AN ACT CONCERNING CIVIL ACTIONS AND SUBPOENAS FILED TO
HARASS AN INDIVIDUAL OR AFTER NUMEROUS ACTIONS
AGAINST THE INDIVIDUAL HAVE BEEN DISMISSED.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) (1) No civil action
2 shall be filed by a person who has been convicted of a crime
3 committed against the defendant in such civil action unless the
4 complaint or initial pleading contains a certificate, signed and sworn to
5 by the attorney or party filing the action, that a reasonable inquiry has
6 been made and that, in the opinion of the attorney or party, there are
7 grounds for a good faith belief that such action has merit and that such
8 action is not being filed for a malicious purpose or solely to harass the
9 defendant.

10 (2) No civil action shall be filed by a person who has had three or
11 more prior complaints or appeals against the defendant in such civil
12 action dismissed by a state or federal court on the grounds that such
13 complaints or appeals were frivolous or malicious or failed to state a
14 claim upon which relief may be granted unless the complaint or initial
15 pleading contains a certificate, signed and sworn to by the attorney or
16 party filing the action, that a reasonable inquiry has been made and
17 that, in the opinion of the attorney or party, there are grounds for a
18 good faith belief that such action has merit and that such action is not
19 being filed for a malicious purpose or solely to harass the defendant.

20 (3) Such certificate shall include a detailed basis for the formation of
21 such opinion.

22 (b) Upon the filing of the complaint or initial pleading with such
23 certificate, the court shall stay all proceedings against the defendant. If
24 the court finds, after review of the certificate and such other
25 information as it deems relevant to its review, that the plaintiff has
26 been convicted of a crime of which the defendant is a victim, or has
27 had three or more prior complaints or appeals against the defendant
28 dismissed by a state or federal court on the grounds that such
29 complaints or appeals were frivolous or malicious or failed to state a
30 claim upon which relief may be granted, and that the pending civil
31 action is without merit and was filed for a malicious purpose or solely
32 to harass the defendant, the court, on motion of the defendant or on its
33 own motion, may dismiss such action and may impose upon the
34 attorney or party filing the action, or both, an appropriate sanction
35 which may include an order to pay to the defendant the amount of the
36 reasonable expenses incurred because of the filing of the civil action,
37 including a reasonable attorney's fee. The court may also submit the
38 matter to the appropriate authority for disciplinary review of the
39 attorney if the party's attorney submitted the certificate.

40 (c) For the purposes of this section, "crime" includes, but is not
41 limited to, a family violence crime, as defined in section 46b-38a of the
42 general statutes.

43 Sec. 2. Section 52-161b of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2012*):

45 (a) A [pro se litigant in any] party in a civil matter, including a
46 habeas corpus proceeding, shall notify the clerk of the court if such
47 [litigant] party has been convicted of a family violence crime, as
48 defined in section 46b-38a, or a violation of section 53-21, 53a-70, 53a-
49 70a, 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-181c, 53a-181d or
50 53a-181e, and if the subject of a subpoena to be issued by such [litigant]
51 party in such matter is the victim of the crime for which such [litigant]

52 party was convicted.

53 (b) A [pro se litigant] party who has been convicted of [said] a
54 family violence crime or a violation of any of said sections shall not
55 issue a subpoena summoning a victim of the crime for which such
56 [litigant] party was convicted to appear and testify at a court hearing
57 or deposition in any civil matter, including a habeas corpus
58 proceeding, unless a court authorizes the issuance of such subpoena in
59 accordance with subsection (c) of this section.

60 (c) Whenever such [pro se litigant] party intends to issue a
61 subpoena to any such victim, such [litigant] party shall provide the
62 clerk of the court with notice of such intention. Upon receipt of such
63 notice, the clerk of the court shall schedule a hearing and provide
64 notice to [the pro se litigant] such party of the date, time and place of
65 such hearing. At such hearing, [the pro se litigant] such party shall
66 make an offer of proof as to the content of the testimony expected to be
67 given by the victim. If the court finds that the testimony expected to be
68 given by the victim is relevant and necessary to the civil matter, the
69 court shall authorize [the pro se litigant] such party to issue such
70 subpoena to such victim. The scope of such [litigant's] party's
71 examination of the victim shall be limited in accordance with the
72 court's findings on the offer of proof.

73 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) A party in a civil matter,
74 including a habeas corpus proceeding, shall notify the clerk of the
75 court if the party has had three or more prior complaints or appeals
76 against the defendant in the civil matter dismissed by a state or federal
77 court on the grounds that such complaints or appeals were frivolous or
78 malicious or failed to state a claim upon which relief may be granted.

79 (b) A party who has had three or more prior complaints or appeals
80 against the defendant dismissed on such grounds shall not issue a
81 subpoena summoning the defendant to appear and testify at a court
82 hearing or deposition in any civil matter, including a habeas corpus
83 proceeding, unless a court authorizes the issuance of such subpoena in

84 accordance with subsection (c) of this section.

85 (c) Whenever such party intends to issue a subpoena to any such
86 defendant, such party shall provide the clerk of the court with notice of
87 such intention. Upon receipt of such notice, the clerk of the court shall
88 schedule a hearing and provide notice to such party of the date, time
89 and place of such hearing. At such hearing, such party shall make an
90 offer of proof as to the content of the testimony expected to be given by
91 the defendant. If the court finds that the testimony expected to be
92 given by the defendant is relevant and necessary to the civil matter, the
93 court shall authorize such party to issue such subpoena to such
94 defendant. The scope of such party's examination of the defendant
95 shall be limited in accordance with the court's findings on the offer of
96 proof.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	New section
Sec. 2	October 1, 2012	52-161b
Sec. 3	October 1, 2012	New section

Statement of Legislative Commissioners:

Section 1(b) was rewritten for consistency.

JUD *Joint Favorable Subst.-LCO*